

STATEMENT OF
TAMMY BARLET, DEPUTY DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
WITH RESPECT TO
“Pending Legislation”

Washington, D.C.

March 29, 2022

Chair Luria, Ranking Member Nehls, and members of the subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on legislation pending before this subcommittee.

H.R. 1182, Veteran Deportation Prevention and Reform Act

Noncitizen service members come from all backgrounds and have varying levels of understanding regarding how to navigate the United States immigration system. If military service is a pathway to citizenship, the Department of Defense (DOD) should do everything possible to ensure noncitizen service members have adequate time and the necessary resources to apply for United States citizenship as early as possible during their time in service. The VFW does not have expertise on the immigration sections of this bill, thus we are unable to offer full support of this proposal.

We appreciate the intent of this legislation, particularly the areas which would require DOD to provide service members, spouses, and dependents the information and resources to navigate the United States naturalization process. These areas include training for military recruiters, providing naturalization information to new recruits at their Military Entrance Processing Station, and training of Judge Advocate General Corps personnel to guide service members through the citizenship process.

H.R. 1183, Honoring the Oath Act of 2021

The VFW does not have expertise on the immigration sections of this bill, thus we are unable to offer full support of this proposal. We appreciate the intent of this legislation, particularly the areas which would require DOD to provide service members, spouses, and dependents the information and resources to navigate the United States naturalization process. These areas include training for military recruiters and training of Judge Advocate General Corps personnel to guide service members through the citizenship process.

H.R. 5916, Wounded Warrior Access Act

This legislation would provide a veteran, or duly authorized agent or representative, the ability to make an electronic request to access their Department of Veterans Affairs (VA) claims file, or “C-File.” A records request should also serve as an Intent to File and expire one year after the date the records request is completed by VA.

The VFW supports this legislation and sees this as a critical first step in modernizing the VA disability claims process. Optimally, the VFW wants to see VA offer real time access to the C-File for both the veteran and the veteran’s accredited representative using VA’s secure external benefit access portals.

H.R. 6131, Veterans Disability Claims Notification Improvement Act of 2021

This legislation would give veterans, or their representatives, the option to receive electronic notifications pertaining to VA claims for benefits or appeals. It would also require the Secretary of Veterans Affairs to solicit recommendations from veterans on how to improve electronic notification and publish those recommendations on a publicly available website of the Department. The VFW supports the intent of this legislation but recommends that “may” be changed to “shall” in Section 2, part (c) to require that VA implements this initiative. The VFW also recommends including that the Secretary would be required to solicit pre-decisional recommendations from VA-accredited service organizations. This distinction would be key in ensuring VA incorporates appropriate recommendations.

H.R. 6064, To direct the Secretary of Veterans Affairs to seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine for a review of examinations, furnished by the Secretary, to individuals who submit claims to the Secretary for compensation under chapter 11 of title 38, United States Code, for mental and physical conditions linked to military sexual trauma

Last November, the VFW testified before this subcommittee on the inconsistencies of VA disability compensation and pension (C&P) examinations for claims associated with military sexual trauma (MST). This legislation would direct the Secretary of Veterans Affairs to seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine to evaluate and report on VA disability C&P examinations for mental and physical conditions associated with MST. The VFW supports this legislation as it would provide an independent review of VA examinations for claims related to MST, including an assessment of the training for examiners and of the tools and protocols used to provide the examinations.

H.R. 6165, Department of Veterans Affairs Post-Traumatic Stress Disorder Processing Claims Improvement Act of 2021

The VFW supports this legislation which would require the Veterans Benefits Administration (VBA) within VA to update an ongoing national training program for claims processors who process claims for post-traumatic stress disorder (PTSD), including instruction on stressor development and verification. Processors would be required to complete the training at least once

per year. VBA would also be required to create a formal procedure to identify processing error trends in PTSD claims, determine training needs annually, and evaluate guidance for claims processors regarding development of PTSD claims.

Critical parts of this legislation are the requirements for annual analysis and annual updates for procedural guidance. The VFW has long echoed Office of Inspector General (OIG) concerns about VBA's overdevelopment of PTSD claims, to include PTSD claims related to MST. OIG reports that VBA consistently overdevelops for stressor statements, retraumatizing MST survivors, combat veterans, and others who suffer from PTSD. VBA's own regulations dictate that evidence of an event in service and nexus to a current diagnosis would compel VA to confer benefits. Regardless, VA's own processing manuals imply that veterans must submit stressor statements even if the stressor is already of record or easily discernible from the veterans' military records. We look forward to this legislation shedding light on these problematic business processes, ensuring that VBA can more consistently deliver benefits to those who suffer from invisible injuries.

Discussion Draft: Amend 38 USC § 103 (d) to add a new paragraph that would allow surviving spouses who remarry after 10 consecutive years of receipt, or entitlement to, benefits relating to Dependency Indemnity Compensation to retain 50 percent of the amount payable under such provision and those who remarry after 20 years to retain the full amount

This legislation would allow surviving spouses who have received or were entitled to receive Dependency and Indemnity Compensation (DIC) for at least ten years to remarry and retain fifty percent of their eligible amount. Those who remarry after twenty years would retain their full DIC amount. While the VFW supports the intent of this legislation to provide DIC benefits to survivors even if they choose to remarry, we do not support imposing arbitrary time frames in this manner. If this change is to happen, the VFW believes prescribing certain years to this would overly complicate the rules for certain surviving spouses and would create a potential inequity.

Discussion Draft: To amend title 38, United States Code, to update certain terminology related to marriage under the laws administered by the Secretary of Veterans Affairs

The VFW supports this legislation which would update Department of Veterans Affairs terminology for surviving spouses to reflect the modern realities and understanding of marriage. It would remove the language that defines a surviving spouse as a person "of the opposite sex" who was a spouse of the veteran. This change would be fairer and more inclusive, recognizing the legality of same-sex marriages. The legislation would also remove language that disqualifies a spouse from benefits if they lived with another person or "held himself or herself out openly to the public to be the spouse of such other person." Removal of this language would recognize the current realities of cohabitation that do not include receipt of legal marriage benefits. It should also be noted that there are other examples of similar terminology and definitions for marriage throughout title 38, United States Code, that merit consideration for updates.

Discussion Draft: To direct the Secretary of Veterans Affairs to create fact sheets, for veterans and for survivors of veterans, that compare benefits and compensation, to such individuals under laws administered by the Secretary, to monthly insurance benefits under title II of the Social Security Act, and supplemental security income under title XVI of the Social Security Act

This legislation would require the Secretary of Veterans Affairs to create fact sheets for veterans and survivors that compare VA benefits to Social Security Disability Insurance benefits and Supplemental Security Income under the Social Security Act. The Secretary would be required to update the fact sheets annually. The VFW supports the intent of this legislation, which would require VA to take steps to provide veterans and survivors with an in-depth explanation and comparison of VA and Social Security benefits. However, we recommend that this subcommittee utilizes its oversight authority to work collaboratively with VA to ensure this information is up to date and accessible to all who need it, instead of passing legislation for action that may be taken through pathways that already exist at VA.

Discussion Draft: Modernizing Department of Veterans Affairs Disability Benefit Questionnaires Act

This bill requires VA to modify the necessary technology systems to allow Disability Benefit Questionnaire (DBQ) data to be received by VA in machine-readable format. The VFW supports the intent of this legislation but believes the language needs to clearly reflect the intent of the bill by clarifying the phrase “by persons other than employees of the Department of Veterans Affairs under section 305 of the Veterans Benefits Improvement Act of 1996 (Public Law 104–275; 38 U.S.C. 5101 note)” so that private medical providers and individual veterans would still be able to submit DBQs the same way they are today.

As the VBA moves forward with automation, the format of DBQs is not the most substantial issue but instead the nuance of the VA rating schedule. VA is in the process of updating the Veteran Affairs Schedule for Rating Disabilities (VASRD) with the stated intent of ensuring examination information can be transmitted in a manner consistent with principles of automation. The greater concern is whether the changes to the VASRD will accurately reflect the associated disabilities.

Discussion Draft: Department of Veterans Affairs Principles of Benefits Automation Act

This legislation establishes guiding principles for the automation of benefits processing. The VFW agrees with the sense of Congress as outlined. However, we are concerned with the timeline. As VBA tests automation, we believe parts of this legislation are premature. The committee should conduct strong oversight of VBA’s automation processes and work closely with VBA and Veterans Service Organizations (VSOs) to then craft legislation to accurately reflect the need of VBA to deliver timely, accurate benefits. Establishing guiding principles regarding automation is beneficial, but the VFW believes legislation is premature without first assessing the progress of the pilot program.

Discussion Draft: Expediting Temporary Ratings for Veterans Act

The VFW supports this legislation which would require the Secretary of Veterans Affairs to modify VBA technology systems and create a process to automate temporary disability ratings for eligible veterans. The ability to extend temporary ratings is critical, especially as we push for toxic exposure reform and increase the demands on VBA to deliver timely benefits to veterans.

Discussion Draft: Discussion Draft: To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to improve equitable access to certain benefits of the Department of Veterans Affairs for the survivors of veterans, and for other purposes

This legislation would require VA to collect and analyze demographic data of survivors receiving DIC, or additional compensation or allowances, for the purpose of identifying underserved populations. VA would then be required to develop an outreach and education strategy to reach the underserved survivor populations to provide information and resources regarding VA benefits. The bill would also create a grant program for VA to provide grants to VSOs to help with outreach and education efforts to underserved survivor populations. Lastly, this legislation includes an assessment of VA's Office of Survivors Assistance resources.

The VFW supports this legislation which would expand outreach efforts to educate survivors on available VA benefits. The VFW recommends modifying the language regarding organizations that would be given priority for the grant program to specify VSOs with programs focused on serving individuals who belong to an underserved demographic. This would be more inclusive of organizations that may have a focus on a specific demographic but have programs that reach all survivors.

Discussion Draft: To amend title 38, United States Code, to improve outreach by the Secretary of Veterans Affairs to dependents of deceased veterans, and for other purposes

This legislation would require VA to contact surviving dependents upon receiving notification of the death of an active service member, by telephone, no less than once per quarter until the dependent files for VA benefits. If the dependent is a minor child, the outreach services would be directed to their legal guardian. Outreach services would be aimed at providing survivors with information on how to find accredited representatives, attorneys, or agents for assistance in filing a claim for benefits. Outreach services would be developed in coordination with VSOs and other VA advisory committees.

The VFW supports this legislation to expand outreach services to surviving dependents. The VFW recommends ensuring the term "eligible dependent" refers specifically to a dependent of a deceased service member or veteran who is eligible for VA benefits. Not all surviving dependents are eligible for VA benefits, and we must make sure that is made clear if this change were to be enacted.

Chair Luria, Ranking Member Nehls, this concludes my remarks. I am prepared to answer any questions you may have at this time.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2022, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.